

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RICHARD R. FURSTENAU,)
Plaintiff,) Case No.: 07-CV-6143
v.))
CITY OF NAPERVILLE, a municipal)
Corporation; MICHAEL HULL, in his)
individual and official capacity; DAVID)
DIAL, in his official and individual)
capacity; MICHAEL CROSS, in his)
individual and official capacity;)
PETER BURCHARD, in his official and)
individual capacity; MARGO ELY,)
in her individual and official capacity,)
and JOE MATCHETT, in his individual)
and official capacity.)
Defendants.)
JURY TRIAL DEMANDED

**DEFENDANTS MARGO ELY, JOE MATCHETT, and PETER BURCHARD'S
JOINT MOTION TO DISMISS PLAINTIFF'S
THIRD AMENDED COMPLAINT PURSUANT TO F.R.C.P. 12(b)(6)**

Defendants MARGO ELY and JOE MATCHETT, by and through their attorneys, JAMES G. SOTOS and JOHN J. TIMBO of JAMES G. SOTOS & ASSOCIATES, LTD., and PETER BURCHARD, by and through his attorney, TERRY A. EKL of EKL WILLIAMS PLLC, hereby move this Honorable Court to dismiss them from Plaintiff's third amended complaint with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6). In support of this Motion, Defendants have filed an accompanying Memorandum of Law.

WHEREFORE, Defendants Margo Ely, Joe Matchett, and Peter Burchard respectfully request that this Honorable Court dismiss them from Plaintiff's third amended complaint, with prejudice and with costs assessed.

s/James G. Sotos

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s/Terry A. Ekl

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CERTIFICATE OF SERVICE

The undersigned having first been duly sworn under oath, states that he electronically filed a complete copy of the foregoing **Defendants' Margo Ely, Joe Matchett, and Peter Burchard's Joint Motion to Dismiss Plaintiff's Third Amended Complaint Pursuant to F.R.C.P. 12(b)(6)** with the Clerk of the Court on **March 4, 2008**, using the CM/ECF system, which will send notification of such filing to the following counsel of record: see attached Service List.

s/John J. Timbo

John J. Timbo, Attorney No. 06238251

One of the attorneys for Defendants

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**RICHARD FURSTENAU V. CITY OF NAPERVILLE, ET AL.
CASE NO.: 07-CV-6143**

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